

**Town of Kinderhook  
Planning Board Meeting  
3211 Church Street  
Valatie, NY 12184  
June 19, 2014**

Approved

**MINUTES**

The Meeting of the Town of Kinderhook Planning Board was held on Thursday, June 19, 2014, beginning at 7:07pm at the Kinderhook Town Hall, 3211 Church Street, Valatie, NY. The meeting was called to order by the Chairwoman, Mary Keegan-Cavagnaro. The Roll was taken by the Secretary.

**A. Roll Call**

Present:

Mary Keegan-Cavagnaro, Chairwoman  
Patrick Prendergast, Engineer  
Peter Haemmerlein  
Chris Simonsen  
Jake Samascott  
Dale Berlin  
William Butcher  
Daniel Weiller  
Guy Rivenburgh  
Jason Graham  
Nataly Dee, Secretary

Excused:

Andy Howard, Town Attorney

Absent:

None

**B. Correspondence**

1. Review of Minutes:

March 13, 2014 – Workshop  
March 20, 2014 – Meeting  
April 10, 2014 – Workshop  
April 17, 2014 – Meeting  
May 8, 2014 – Workshop  
May 15, 2014 – Meeting

A motion to approve the above listed minutes was made by Mr. Samascott. Motion seconded by Mr. Haemmerlein. All in favor of approval with the exception of Mr. Simonsen who abstained from the approval of the minutes of May 15, 2014, as he was excused from the meeting.

**C. Public Hearings –**

The notice as it appeared in the newspaper on June 7, 2014, was read by the secretary.

1. 7:05pm – ELLE-KAZ, Inc., 102 Orinsekwa Road, Valatie, NY  
(Tax Parcel # 13.-1-33) – Major Subdivision;

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Plans of the proposal were distributed to the board and posted for the public. Mr. Kazer addressed the board and reviewed the history of the property and proposal for the subdivision. He was joined by Mr. William Better, Attorney; Mr. Chad Lindbergh and Andrew Diddio, Taconic Engineering; Mr. Peter VanAlstyne, Land Surveyor. Mr. Kazer explained that he and his brother own the land and that his brother would like to divest his interest in the property at this time. The subdivision proposal entails creating 9 lots from the existing parcel of approximately 83 acres. There are 5 existing houses on Route 28 that are currently rental units. An additional 4 building lots are being proposed. One of those lots would be approximately 16 acres that would be a conserved area with only one allowable house. The existing houses would be on undersized lots offset by the size of the other four lots to comply with the zoning density regulations.

Mr. Better addressed the board. He added to the description provided by Mr. Kazer noting the subdivision of the front 27 acres for the nine proposed lots from the back 55 acres which Mr. Kazer and his family intend to retain. He explained some of the regulations of the Conservation Subdivision with particular note to zoning density. Given a lot of 27 acres and a lot size of 3 acres, nine lots could be created. Some of the proposed lots with the existing houses would be under an acre, approximately .6 to .7 acres in size. He explained the theory of averaging the density so that the overall subdivision complies with the zoning ordinance.

A review was made of the various approvals received from county departments including approval of the septic systems from the Department of Health, email confirmation from the County Highway Department regarding the status of the driveways and curb cuts. Erosion and Sediment Control Plan was submitted and a Notice of Intent has been filed. The wetlands have been delineated by the Department of Environmental Conservation.

Mr. Better addressed the matter of consolidation of driveways and curb cuts. He noted that 4 driveways would be removed, primarily from lots 5 and 6. A private road is being proposed that would access four of the lots (lot 5, 6, 3, and 4). The County Highway Department recommended that a shoulder turnoff area be incorporated into the construction of that private road.

A motion to open the Public Hearing was made by Mr. Simonsen. Motion seconded by Mr. Butcher. All in favor. Motion carried: hearing opened.

The public was invited by the Chairwoman to address the board with any comments or questions regarding this application.

Mr. John Zukowski, Apple Tree Court: He inquired about the DEC wetlands and the status of that in relation to the current proposal. He was concerned that the wetlands were being included in the 27 acres to be subdivided, and whether it was included in the conservation area. Further, he inquired as to what is to guarantee that the new owners of properties would not use the existing houses as rental property. He wanted to know if they are single family homes and what guarantee would be made to insure that they are single family homes; would they be inspected by the Building Department. He wanted to know what will be done to improve the condition of the houses. Further, he inquired what is to prevent commercial vehicles from being parked at these locations, and from establishing businesses in the existing houses. He wondered if it had been considered to make larger parcels than what is proposed. He also wanted to

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know if the covenants that will be associated with this proposal will be made available for review. Finally, he inquired about the specifications of the proposed private road.

Mr. Thomas McAndrew, Apple Tree Court: He wanted to clarify the point that if this project is approved, the zoning laws would require that the dwellings become single family homes. He was concerned about the condition of the existing houses and whether they would sell in their current condition and what would happen if they were unoccupied. He also wanted to address the speed limit on the road which he felt needs to be addressed before more development occurs.

Mr. Guy Graziano, Pine Hill Park: He expressed his displeasure of the current condition of the existing houses, noting that little upkeep has been done. He does not trust that improvements will be made and that they will be sold. He was concerned about water and flooding, noting that in the winter there are ponds of ice.

Ms. Pam Scanlon, Pine Hill Park: She inquired as to whether Mr. Kazer intends on converting the houses prior to sale or selling them as is for the conversion to happen after the sale. Additionally, she asked about the number of proposed driveways, who would be putting up the bond for the construction of the private road, and who will be responsible for maintaining it afterward. Further, she inquired about the septic systems.

Mrs. Janice Graziano: She inquired about the water source.

Mr. Alan Dellehunt, Apple Tree Court: Clarified that the project did not involve one developer, but rather would be developed individually.

Pat McCauley, Pine Hill Park: She commended the Planning Board for their hard work. She also noted her skepticism of the current owner's intentions noting her displeasure of the current condition of the existing rental houses.

Mr. Ed VanCampen, Apple Tree Court: He inquired about the lot abutting the Martino's property, Lot 2.

Mr. Better responded to the questions and concerns posed by the public. He noted that the structures that are currently duplexes will be converted to single family homes and sold as such. Mr. Better offered that this proposal will result in a gentrification of the area and be a benefit to the whole neighborhood. He noted that a bond would be issued by Mr. Kazer to build the private road to the recommended road specifications. Also restrictive covenants and maintenance agreements would be established to reduce risk of failure. Mr. Better addressed the issue of the proposed driveway consolidation. He noted that several existing driveways would be eliminated. He stated that water would be supplied by separate wells for each property. Additionally, each property would also have its own septic system and the undersized lots have been made deep enough to accommodate new septic systems should the need ever arise. He also noted that no further subdivision of any of the lots would be allowed.

The Chairwoman asked if there was any one else from the public who wished to be heard.

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The Chairwoman thanked the public in attendance for their interest and attendance. She addressed the concern regarding the matter of the speed limit along the road noting that it is an issue that the board has discussed and unfortunately has no control over.

A motion to close the Public Hearing was made by Mr. Berlin. Motion seconded by Mr. Simonsen. All in favor. Motion carried; hearing closed.

The board engaged in a discussion of the application.

Mr. Prendergast addressed the engineering team with his questions and comments. They reported that no last minute changes were made that have been reflected on the plans. Mr. Prendergast requested they further address the elevations specifically around driveways, drywells, and culverts. He requested an estimate from the engineers on what the road would cost for the purposes of a bond. Mr. Better also suggested a bond be issued to reduce the duplexes to single family homes and remove the existing driveways that will no longer be needed to further ensure that the matter be attended to. Mr. Better addressed some of the legal issues surrounding the proposed private road. He noted that Lot 4 would own the land of the road, but that an easement including reciprocal rights of the other property owners to use the road, and a maintenance agreement would be drafted to ensure the upkeep of the road would be provided. Mr. Better will confer with Mr. Howard regarding an easement and restrictive covenants. The Building Department would be able to review the work being done.

Approvals from County and State Departments were reviewed. Department of Health approval has been submitted. County Highway Department has been consulted and an email was received stipulating their requirements. To date, a response has not been received from DEC of the plans sent to them with the wet lands flagged. The DEC wetland delineation was made in accordance with their manual and regulations. An acknowledgement letter was received in response to the NOI filed. A permit was issued and the recommendations noted will be taken. A discussion of the storm water permit and source of action to be taken ensued.

Ms. Keegan-Cavagnaro inquired as to whether the existing houses sit on slabs or have basements. It was noted that 3 of the 5 existing houses have full basements.

The Chairwoman asked if there were additional questions from the board.

Mr. Rivenburgh sought clarification and confirmation from the applicant that if this project is approved the parcels with existing homes will be sold as single family homes for the new home owner to make further improvements as needed. Mr. Kazer indicated that in addition to converting the houses to single family homes, some additional improvements may be made.

To review, prior to approval, Mr. Prendergast needs to see the drainage remediated a cost estimate for proposed private road, and plans for conversion to single family homes. Mr. Howard also needs to review the specifications and language to be submitted.

Additionally, a discussion of deep hole tests for the house sites was had. It was noted that perk tests and deep tests were conducted and the results are noted on the plans. Footing drains were discussed. Mr.

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Prendergast suggested that a note could be added to the plans that the basements be no deeper than 6'. Mr. Prendergast will confer with the engineers further on this matter.

Discussion of the application will continue next month.

2. 7:15pm – Open Space Institute & Jean Paul Courtens, County Route 25, Kinderhook, NY  
(Tax Parcel # 13.-1-5.11/5.12/5.2) – Minor Subdivision/Merger of Lands;

Messrs. Butcher and Simonsen recused themselves. Mr. Weiller and Mr. Rivenburgh were asked to join the board as voting members.

Mr. VanAlstyne addressed the board and distributed plans. He reviewed the scope of the proposal for the board. Two of the parcels are currently owned by the Open Space Institute, the third is owned by Jean Paul Courtens. It was originally one parcel, but was subdivided some time ago with the thought of putting one house on one of the parcels. The applicants would like to merge the lands into one lot which would then be conveyed to Mr. Courtens. The test pits that were previously approved for the subdivision are still shown on the plans. The property is still limited in relation to residential development.

Letters of permission to represent were submitted previously.

A motion to open the Public Hearing was made by Mr. Samascott. Motion seconded by Mr. Berlin. All voting members in favor. Motion carried; hearing opened.

Ms. Keegen-Cavagnaro invited anyone from the public to address the board with questions or comments.

Mr. Butcher, as a member of the public, clarified the point that only one residential structure would be permitted on the lot.

A letter received from an adjoining neighbor, Mr. Bruno Bertuccioli, was read for the record (on file). In essence, he is in favor of the proposal as long as the agricultural use remains the same.

A motion to close the Public Hearing was made by Mr. Berlin. Motion seconded by Mr. Haemmerlein. All voting members in favor. Motion carried; hearing closed.

The State Environmental Quality Review (SEQR) was reviewed by the Chairwoman:  
Part II: Impact Assessment of the EAF (Short Environmental Assessment Form).

1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations? *Proposed answer is no.*
2. Will the proposed action result in a change in the use or intensity of use of land? *Proposed answer is no.*
3. Will the proposed action impair the character or quality of the existing community? *Proposed answer is no.*

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4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)? *Proposed answer is no.*
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway? *Proposed answer is no.*
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities? *Proposed answer is no.*
7. Will the proposed action impact existing:
  - a. public / private water supplies? *Proposed answer is no.*
  - b. public / private wastewater treatment? *Proposed answer is no.*
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources? *Proposed answer is no.*
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, water bodies, groundwater, air quality, flora and fauna)? *Proposed answer is no.*
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems? *Proposed answer is no.*
11. Will the proposed action create a hazard to environmental resources or human health? *Proposed answer is no.*

If the board was inclined to agree with the findings, they could entertain a motion to issue a Negative Declaration.

A motion to issue a Negative Declaration was made by Mr. Berlin. Motion seconded by Mr. Weiller. All voting members in favor. Motion carried; declaration issued.

A motion to deem the application complete was made by Mr. Berlin. Motion seconded by Mr. Weiller. All voting members in favor. Motion carried; application complete.

A motion to approve the application as presented was made by Mr. Graham. Motion seconded by Mr. Haemmerlein. All voting members in favor. Motion carried; application approved.

Fees in the amount of \$200 fee were submitted by Mr. VanAlstyne on behalf of the applicant.

Messrs. Butcher and Simonsen rejoined the board.

**D. Old Business**

1. John Brosen, Hennett Road, Valatie, NY (Tax Parcel # 54.-2-31.100) - Minor Subdivision;

Mr. Brosen was not in attendance to represent his application.

**E. New Business**

1. Ann Hamilton, Pin Oak Drive, Kinderhook, NY (Tax Parcel # 53.-1-1) - Minor Subdivision;

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Mrs. Hamilton explained that she has purchased the property behind her current property. It is a 2 acre parcel with an existing house. They would like to rent the house and subdivide the acreage, retaining one acre to merge with the existing property of the farm. The zoning is AR or R2, two acre zone. A discussion ensued of possible solutions; however it is a difficult situation due to the zoning regulations. The possibility to join the properties and then do a conservation subdivision was raised. Mr. Howard would need to review the particulars. Mr. Simonsen suggested that Mrs. Hamilton refer to the Conservation Subdivision section of the code.

2. Bruce Moore, 3559 US Route 9, Kinderhook – Minor Subdivision;

Mr. Moore addressed the board and explained where his property is and what he would like to do. He owns an 8 acre parcel on Route 9 just south of the northern county line. On the property is his residence and rental apartment house. He would like to subdivide the residence from the apartment house. He would like to know if it would be possible assign two acres to the apt house and retain 6 acres with main residence in the rear. A discussion of past Planning Board decisions ensued. The driveways and curb cuts were discussed as well. He has an old site plan from 1992, but will look for additional plans for future meetings. The Planning Board's files will be researched for additional material. Mr. Moore was referred to the code.

**F. ZBA Opinions**

None.

**G. Liaisons**

1. Village Planning Boards: Nothing new to report at this time.
2. Town Board: Nothing new to report at this time.
3. NYSEG Project: Nothing new to report at this time.

**H. Other**

1. Public Comment

None.

A motion to adjourn to the meeting was made by Mr. Simonsen. Motion seconded by Mr. Butcher. All in favor. Motion carried; meeting adjourned at 9:03pm.

Respectfully submitted,

Nataly Dee